

AMENDED IN SENATE JULY 2, 2014  
AMENDED IN ASSEMBLY MAY 15, 2014  
AMENDED IN ASSEMBLY APRIL 30, 2014  
AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1999**

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**Introduced by Assembly Member Atkins**

February 20, 2014

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An act to add and repeal Sections 38.9, 17053.86, and 23686 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1999, as amended, Atkins. Personal income and corporation taxes: credits: rehabilitation.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws.

This bill would allow a credit against those taxes for each taxable year beginning on or after January 1, 2015, and before January 1, ~~2021~~, 2023, in an amount, determined pursuant to a specified section of the Internal Revenue Code, that is paid or incurred during the taxable year for rehabilitation of certified historic structures. This bill would provide for a ~~25%~~ 20% credit, or ~~30%~~ 25% credit if the structure meets specified criteria, for rehabilitation of a certified historic structure within the state to be allocated by the Governor's Office of Business and Economic Development in an aggregate amount of ~~\$100,000,000~~ \$80,000,000 per calendar year, as specified. This bill would require the Legislative

Analyst to, on an annual basis, collaborate with the Governor’s Office of Business and Economic Development to review the tax credit, as provided.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) The Legislature finds and declares that  
2 California’s historic buildings are an important asset to  
3 communities throughout the state, and that the preservation and  
4 restoration of these buildings is important to enhancing civic pride,  
5 increasing tourism, and maintaining vibrant neighborhoods.

6 (b) The Legislature further finds and declares all of the  
7 following:

8 (1) The federal Historic Preservation Tax Incentives program,  
9 currently available to California’s income producing historic  
10 properties, has generated nearly \$1.5 billion in investment during  
11 the last 10 years.

12 (2) While 35 states have similar state tax credits or incentives  
13 for historic preservation, no such incentive exists in California.

14 (3) States that have partnered a state incentive with the federal  
15 Historic Preservation Tax Incentive have reaped significant  
16 economic development benefits, including construction and  
17 building industry job creation, increased state tax revenues through  
18 increased employment and wages, increased local property tax  
19 revenues through increased property values, and increased local  
20 tax revenues through sales taxes and heritage tourism.

21 (4) Over the last 10 years, California has had 129 projects  
22 qualify for the federal Historic Preservation Tax Incentives  
23 program. These projects have been located in 20 different counties.

24 (5) As California communities continue to adjust and adapt to  
25 the dissolution of redevelopment agencies, proven tools are still  
26 needed to incentivize economic development and revitalize  
27 economically distressed areas.

28 SEC. 2. Section 38.9 is added to the Revenue and Taxation  
29 Code, to read:

30 38.9. (a) The Legislative Analyst shall, on an annual basis  
31 beginning January 1, 2016, collaborate with the Governor’s Office

1 of Business and Economic Development to review the effectiveness  
2 of the tax credits allowed by Sections 17053.86 and 23686. The  
3 review shall include, but is not limited to, an analysis of the demand  
4 for the tax credit, the types and uses of projects receiving the tax  
5 credit, the jobs created by the use of the tax credits, and the  
6 economic impact of the tax credits.

7 (b) This section shall remain in effect only until January 1, ~~2022,~~  
8 2024, and as of that date is repealed, unless a later enacted statute,  
9 that is enacted before January 1, ~~2022,~~ 2024, deletes or extends  
10 that date.

11 SEC. 3. Section 17053.86 is added to the Revenue and Taxation  
12 Code, to read:

13 17053.86. For each taxable year beginning on or after January  
14 1, 2015, and before January 1, ~~2021,~~ 2023, there shall be allowed  
15 as a credit against the “net tax,” as defined in Section 17039, an  
16 amount determined in accordance with Section 47 of the Internal  
17 Revenue Code, except as follows:

18 (a) (1) In lieu of the percentages specified in Section 47(a) of  
19 the Internal Revenue Code, except as provided in paragraph (2),  
20 the applicable percentage shall be ~~25~~ 20 percent of the qualified  
21 rehabilitation expenditures with respect to a certified historic  
22 structure.

23 (2) The applicable percentage shall be ~~30~~ 25 percent of the  
24 qualified rehabilitation expenditures with respect to a certified  
25 historic structure if that certified historic structure meets one of  
26 the following criteria:

27 (A) The rehabilitated structure is located on ~~either~~ federal  
28 surplus property, if obtained by a local agency under Section 54142  
29 of the Government Code, on surplus state real property, as defined  
30 by Section 11011.1 of the Government Code, or on surplus land,  
31 as defined by subdivision (b) of Section 54221 of the Government  
32 Code.

33 (B) The rehabilitated structure includes affordable housing for  
34 lower-income households, as defined by Section 50079.5 of the  
35 Health and Safety Code.

36 (C) The structure is located in a designated census tract, as  
37 defined in paragraph (7) of subdivision (b) of Section 17053.73.

38 (D) The structure is a part of a military base reuse authority  
39 established pursuant to Title 7.86 (commencing with Section  
40 67800) of the Government Code.

1 (E) The structure is a transit-oriented development that is a  
2 higher-density, mixed-use development within a walking distance  
3 of one-half mile of a transit station.

4 (b) For purposes of this section, a certified historic structure  
5 means a structure in this state that appears on either the National  
6 Register of Historic Places or the California Register of Historical  
7 Resources.

8 (c) A deduction shall not be allowed under this part for any  
9 expense for which a credit is allowed by this section.

10 (d) If a credit is allowed under this section with respect to any  
11 property, the basis of that property shall be reduced by the amount  
12 of the credit allowed.

13 (e) In the case where the credit allowed by this section exceeds  
14 the “net tax,” the excess may be carried over to reduce the “net  
15 tax” in the following year, and the seven succeeding years if  
16 necessary, until the credit is exhausted.

17 (f) For purposes of this section, the Governor’s Office of  
18 Business and Economic Development shall do the following:

19 (1) (A) On and after January 1, 2015, and before January 1,  
20 ~~2021~~, 2023, allocate tax credits to applicants.

21 (B) (i) The credit shall be allocated to the partners of a  
22 partnership owning the project in accordance with the partnership  
23 agreement, regardless of how the federal historic rehabilitation tax  
24 credit with respect to the project is allocated to the partners, or  
25 whether the allocation of the credit under the terms of the  
26 agreement has substantial economic effect, within the meaning of  
27 Section 704(b) of the Internal Revenue Code.

28 (ii) To the extent the allocation of the credit to a partner under  
29 this section lacks substantial economic effect, any loss or deduction  
30 otherwise allowable under this part that is attributable to the sale  
31 or other disposition of that partner’s partnership interest made prior  
32 to the expiration of the federal credit shall not be allowed in the  
33 taxable year in which the sale or other disposition occurs, but shall  
34 instead be deferred until, and treated as if, it occurred in the first  
35 taxable year immediately following the taxable year in which the  
36 federal credit period expires for the project described in clause (i).

37 (2) Establish a procedure for applicants to file with the  
38 Governor’s Office of Business and Economic Development a  
39 written application, on a form jointly prescribed by that office and

1 the Office of Historic Preservation for the allocation of the tax  
2 credit.

3 (3) Establish criteria consistent with the requirements of this  
4 section, for allocating tax credits. Criteria shall include, but are  
5 not limited to, the following:

6 (A) The number of jobs created by the rehabilitation project,  
7 both during and after the rehabilitation of the structure.

8 (B) The expected increase in state and local tax revenues derived  
9 from the rehabilitation project, including those from increased  
10 wages and property taxes.

11 (C) Any additional incentives or contributions included in the  
12 rehabilitation project from federal, state, or local governments.

13 (4) Determine and designate, in consultation with the Office of  
14 Historic Preservation, applicants that meet the requirements of this  
15 section to ensure that the rehabilitation project upholds historical  
16 values in terms of architectural and aesthetic standards.

17 (5) Process and approve, or reject, all applications.

18 (6) Subject to the annual cap established as provided in  
19 subdivision (g), allocate an aggregate amount of credits under this  
20 section and Section 23686, and allocate any carryover of  
21 unallocated credits from prior years.

22 (7) Certify tax credits allocated to taxpayers.

23 (8) Provide the Franchise Tax Board an annual list of the  
24 taxpayers that were allocated a credit pursuant to this section and  
25 Section 23686, including each taxpayer's taxpayer identification  
26 number, and the amount allocated to each taxpayer.

27 (g) The aggregate amount of credits that may be allocated in  
28 any calendar year pursuant to this section and Section 23686 shall  
29 be an amount equal to the sum of all of the following:

30 (1) ~~One hundred million dollars (\$100,000,000)~~ *Eighty million*  
31 *dollars (\$80,000,000)* in tax credits for the 2015 calendar year and  
32 each calendar year thereafter, through and including the ~~2020~~ 2022  
33 calendar year.

34 (2) The unused allocation tax credit amount, if any, for the  
35 preceding calendar year.

36 (h) This section shall remain in effect only until December 1,  
37 ~~2021~~, 2023, and as of that date is repealed.

38 SEC. 4. Section 23686 is added to the Revenue and Taxation  
39 Code, to read:

1 23686. For each taxable year beginning on or after January 1,  
2 2015, and before January 1, ~~2021~~, 2023, there shall be allowed as  
3 a credit against the “tax,” as defined in Section 23036, an amount  
4 determined in accordance with Section 47 of the Internal Revenue  
5 Code, except as follows:

6 (a) (1) In lieu of the percentages specified in Section 47(a) of  
7 the Internal Revenue Code, except as provided in paragraph (2),  
8 the applicable percentage shall be ~~25~~ 20 percent of the qualified  
9 rehabilitation expenditures with respect to a certified historic  
10 structure.

11 (2) The applicable percentage shall be ~~30~~ 25 percent of the  
12 qualified rehabilitation expenditures with respect to a certified  
13 historic structure if that historic structure meets one of the  
14 following criteria:

15 (A) The rehabilitated structure is located on ~~either~~ federal  
16 surplus property, if obtained by a local agency under Section 54142  
17 of the Government Code, on surplus state real property, as defined  
18 by Section 11011.1 of the Government Code, or on surplus land,  
19 as defined by subdivision (b) of Section 54221 of the Government  
20 Code.

21 (B) The rehabilitated structure includes affordable housing for  
22 lower-income households, as defined by Section 50079.5 of the  
23 Health and Safety Code.

24 (C) The structure is located in a designated census tract, as  
25 defined in paragraph (7) of subdivision (b) of Section 17053.73.

26 (D) The structure is a part of a military base reuse authority  
27 established pursuant to Title 7.86 (commencing with Section  
28 67800) of the Government Code.

29 (E) The structure is a transit-oriented development that is a  
30 higher-density, mixed-use development within a walking distance  
31 of one-half mile of a transit station.

32 (b) For purposes of this section, a certified historic structure  
33 means a structure in this state that appears on either the National  
34 Register of Historic Places or the California Register of Historical  
35 Resources.

36 (c) A deduction shall not be allowed under this part for any cost  
37 for which a credit is allowed by this section.

38 (d) If a credit is allowed under this section with respect to any  
39 property, the basis of that property shall be reduced by the amount  
40 of the credit allowed.

1 (e) In the case where the credit allowed by this section exceeds  
2 the “tax,” the excess may be carried over to reduce the “tax” in  
3 the following year, and the seven succeeding years if necessary,  
4 until the credit is exhausted.

5 (f) For purposes of this section, the Governor’s Office of  
6 Business and Economic Development shall do the following:

7 (1) (A) On and after January 1, 2015, and before January 1,  
8 ~~2021~~, 2023, allocate tax credits to applicants.

9 (B) (i) The credit shall be allocated to the partners of a  
10 partnership owning the project in accordance with the partnership  
11 agreement, regardless of how the federal historic rehabilitation tax  
12 credit with respect to the project is allocated to the partners, or  
13 whether the allocation of the credit under the terms of the  
14 agreement has substantial economic effect, within the meaning of  
15 Section 704(b) of the Internal Revenue Code.

16 (ii) To the extent the allocation of the credit to a partner under  
17 this section lacks substantial economic effect, any loss or deduction  
18 otherwise allowable under this part that is attributable to the sale  
19 or other disposition of that partner’s partnership interest made prior  
20 to the expiration of the federal credit shall not be allowed in the  
21 taxable year in which the sale or other disposition occurs, but shall  
22 instead be deferred until, and treated as if, it occurred in the first  
23 taxable year immediately following the taxable year in which the  
24 federal credit period expires for the project described in clause (i).

25 (2) Establish a procedure for applicants to file with the  
26 Governor’s Office of Business and Economic Development a  
27 written application, on a form jointly prescribed by that office and  
28 the Office of Historic Preservation for the allocation of the tax  
29 credit.

30 (3) Establish criteria consistent with the requirements of this  
31 section, for allocating tax credits. Criteria shall include, but are  
32 not limited to, the following:

33 (A) The number of jobs created by the rehabilitation project,  
34 both during and after the rehabilitation of the structure.

35 (B) The expected increase in state and local tax revenues derived  
36 from the rehabilitation project, including those from increased  
37 wages and property taxes.

38 (C) Any additional incentives or contributions included in the  
39 rehabilitation project from federal, state, or local governments.

- 1 (4) Determine and designate, in consultation with the Office of
- 2 Historic Preservation, applicants that meet the requirements of this
- 3 section to ensure that the rehabilitation project upholds historical
- 4 values in terms of architectural and aesthetic standards.
- 5 (5) Process and approve, or reject, all applications.
- 6 (6) Subject to the annual cap established as provided in
- 7 subdivision (g), allocate an aggregate amount of credits under this
- 8 section and Section 17053.86, and allocate any carryover of
- 9 unallocated credits from prior years.
- 10 (7) Certify tax credits allocated to taxpayers.
- 11 (8) Provide the Franchise Tax Board an annual list of the
- 12 taxpayers that were allocated a credit pursuant to this section and
- 13 Section 17053.86, including each taxpayer’s taxpayer identification
- 14 number, and the amount allocated to each taxpayer.
- 15 (g) The aggregate amount of credits that may be allocated in
- 16 any calendar year pursuant to this section and Section 17053.86
- 17 shall be an amount equal to the sum of all of the following:
- 18 (1) ~~One hundred million dollars (\$100,000,000)~~ *Eighty million*
- 19 *dollars (\$80,000,000)* in tax credits for the 2015 calendar year and
- 20 each calendar year thereafter, through and including the ~~2020~~ 2022
- 21 calendar year.
- 22 (2) The unused allocation tax credit amount, if any, for the
- 23 preceding calendar year.
- 24 (h) This section shall remain in effect only until December 1,
- 25 ~~2021~~, 2023, and as of that date is repealed.
- 26 SEC. 5. This act provides for a tax levy within the meaning of
- 27 Article IV of the Constitution and shall go into immediate effect.